

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

**KENIA MERCEDES
DIAZ-RODRIGUEZ,**

Plaintiff

v.

ANDREW M. SAUL¹,

Defendant

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CIVIL ACTION NO. 3:18-0603

(JUDGE MANNION)

MEMORANDUM

Pending before the court is the report of Judge Mehalchick, which recommends that the plaintiff's complaint challenging the final decision of the Commissioner denying her applications for disability benefits ("DIB") and Supplemental Security Income ("SSI") under Titles II and XVI of the Social Security Act, (Doc. 1), be granted and, that the Commissioner's decision be vacated. (Doc. 15). Judge Mehalchick also recommends that this case be remanded to the Commissioner for further proceedings. Neither the Commissioner nor the plaintiff have filed any objections to Judge Mehalchick's report. The time within which to file objections has expired.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."

¹Andrew M. Saul was sworn in as Commissioner of Social Security on June 17, 2019, and is automatically substituted as the defendant in this action. See Fed.R.Civ.P. 25(d).

[Fed.R.Civ.P. 72\(b\)](#), advisory committee notes; see also [Univac Dental Co. v. Dentsply Intern., Inc.](#), 702 F.Supp.2d 465, 469 (2010) (citing [Henderson v. Carlson](#), 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every Report and Recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); Local Rule 72.31. Upon review, the report and recommendation of Judge Mehalchick will be adopted in its entirety.

The court has reviewed the reasons presented by Judge Mehalchick for recommending that the plaintiff's appeal of the Commissioner's decision denying her claims for DIB and SSI be granted. Judge Mehalchick found that substantial evidence did not support the Commissioner's finding that the plaintiff had the residual functional capacity to perform medium work based on her physical impairments. Because the court agrees with the sound reasoning that led Judge Mehalchick to the conclusions in her report and finds no clear error on the face of the record, the court will adopt the report in its entirety. An appropriate order shall issue.

s/ *Malachy E. Mannion*
MALACHY E. MANNION
United States District Judge

Date: August 29, 2019

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